UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI SOUTHEASTERN DIVISION

BRIAN BECKER,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 1:12-cv-190 SNLJ
)	
CITY OF POPLAR BLUFF, MISSOURI,)	
et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

Plaintiff filed his complaint against the City of Poplar Bluff, Missouri for prospective relief and damages on November 18, 2012. Plaintiff alleged that defendant's ordinance prohibiting the leafleting of vehicles, Ordinances § 605.440(E), was unconstitutional, and that he had been chilled from engaging in expressive activity protected by the First Amendment after he was issued a citation for violating the ordinance. Plaintiff also sought a preliminary injunction.

On December 3, 2012, defendant filed a motion to dismiss (#9), reporting that the city had repealed § 605.440(E) after learning of the lawsuit, and arguing that because the ordinance had been repealed, there is no controversy, and the complaint should be dismissed.

On December 5, 2012, plaintiff filed his amended complaint, which names the City of Poplar Bluff and two city employees as defendants and includes five counts. Plaintiff contends in his response to defendant's motion (#18) that defendant's motion is now moot. *See Pure Country, Inc. v. Sigma Chi Fraternity*, 312 F.3d 952, 956 (8th Cir. 2002). Defendant has not replied, and, based on defendant's motion seeking an extension of time in which to answer the complaint (#22), it appears that defendant plans to answer the amended complaint. The Court

agrees that defendant's motion to dismiss, which focuses only on the prospective relief sought by plaintiff, is now moot.

Accordingly,

IT IS HEREBY ORDERED that defendant's motion to dismiss (#9) is **DENIED** as moot.

Dated this 4th day of March, 2013.

UNITED STATES DISTRICT JUDGE